

2014 to 2016, 2017, 2018, up to April 2019 Cases

Administrative Law and Administrative Agencies

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Administrative Law

- **Definition:** All the laws and policies that regulate or control the administrative *organization and operations* of the government
- **Classifications:**
 1. Internal and External Administration
 2. Law that Controls (Charter) and those issued by Administrative Agencies (Rules)
 3. Substantive and Procedural Administrative Law
 4. General and Special Administrative Law

Administrative Agencies (AAs)

- An agency which exercises some *significant form or combination* of executive, legislative or judicial powers (“4th Branch”)
- All AAs are Public Offices
- Include boards, commissions, departments, bureaus, offices, authorities, government corporations, government instrumentalities, and local governments
- Rationale: complex, diverse and specialized concerns

Creation of AAs

- Constitution
- Congress (Special Law-Chartered; GOCCs - economically viable and common good; LGUs - plebiscite)
- President (Executive Order; by authority under the Constitution or of law)
- Supreme Court (classifies; confirms)
- AAs themselves (Articles of Incorporation; by authority of law; non-chartered)
- Local Governments (Ordinance; by authority of law)

Charter: Enabling Instrument

1. Name
2. Principles
3. Mandate/ Purpose
4. Powers
5. Duties and Responsibilities
6. Relationships
7. Jurisdiction
8. Structure
9. Budget
10. Dissolution

Characteristics of AAs

1. Size
2. Specialization/
Functions
3. Territory
4. Responsibility for
Results
5. Administrative Duties
6. Delegated
Authorities
7. Accountability
8. Relationships
9. Capitalization/
Funding

Types of AAs

1. Offers gratuities, grants or privileges (*PAO, SSS*)
2. Performs specific governmental functions (*DENR, BIR*)
3. Undertakes public service (*PRA, MWSS*)
4. Regulates businesses affected with public interest (*NTC, IPO*)
5. Exercises police power to regulate private businesses (*SEC, Cities*)
6. Resolves controversies (*NLRC, ERC*)

Government Bureaucracy

- Administrative Agency/
Government Agency
- Government-Owned and –
Controlled Corporation
(special charter/ non-
chartered)
- Government
Instrumentality
- Government Financial
Institution
- State Universities and
Colleges
- Public Corporation
- Public Office
- National Government
Agency
- Quasi-Corporation
- Quasi-Public Corporation
- Municipal Corporation
Proper/ Local Government
Unit
- Quasi-Municipal
Corporation

GOCC vs. GICP

GOCC

1. Organized as stock or non-stock corporation
2. Created by law or under Corporation Code
3. Public character of its function
4. Government ownership over the same
5. Created for common good *and* must be economically viable

GICP

1. Neither stock nor non-stock
2. Not a corporation
3. Created by law only (not under Corporation Code)
4. Agency of the national government
5. Not integrated within the department framework
6. Vested with special functions or jurisdiction by law
7. Endowed with some if not all corporate powers
8. Administering special funds
9. Enjoying operational autonomy

Recent Jurisprudence

Entity	Characterization
Manila Int'l Airport Authority	Created under an Executive Order GI; not a GOCC since neither stock nor non-stock
Manila Economic and Cultural Office	Created under Corporation Code as non-stock corporation Not a GOCC (not owned by Government); Not a GI (since incorporated under Corporation Code) <i>Sui Generis</i> Funds subject to COA
Boy Scouts of the Philippines	Created as corporation under Special Law (Commonwealth Act) Juridical person under Civil Code (other corporations with public purpose) Public function - vital role of the youth GOCC and GI – attached agency; need not meet twin test (economic viability and control/ ownership test) - <i>Sui Generis</i>
Veterans Federation of the Philippines	Created under RA 2640 and registered with the SEC “Public corporation” per Charter; Adjunct of government; Classified as GOCC to be privatized Sovereign function; Control and supervision of DND; DBM can in the future allocate funds

Recent Jurisprudence

Entity	Characterization
Philippine Fisheries Development Authority	Created under PD 977 as amended by EO 772 GI; not a GOCC (has capital stock, but not divided into shares)
Leyte Metropolitan Water District	Created pursuant to PD 198 GOCC with an original charter (since not under Corporation Code, not a private corporation) Quasi-Public under Charter
Philippine Economic Zone Authority	GI since not integrated within the department framework but is an agency attached to the DTI
Philippine Reclamation Authority	Incorporated GI Not a GOCC since not a stock nor a non-stock corporation; has capital stock but not divided into shares Not a GOCC since while established for common good, it need not meet test of economic viability nor compete in market place
Metropolitan Waterworks and Sewerage System	GI under Executive (EO 596-2006) and Legislative (GCG Law) By its nature, it is a GOCC (stock corporation; meets common good and economic viability tests)
Bases Conversion Development Authority	Not stock: Capitol stock not divided into shares Not non-stock: not organized under list purposes under Corp. Code As GI, exempt from paying legal or docket fees

Rules

1. All AAs are POs, not all POs are AAs (e.g. Congress, Courts)
2. All AAs are GAs, All GAs are AAs (under GCG Act)
3. All PCs are AAs, not all AAs are not PCs (e.g. Departments, GIs and Commissions)
4. GOCCs are Corporations, GIs are not; GOCCs cannot be GIs (except BSP)
5. GOCCs, not GIs, must meet twin constitutional test of economic viability *and* ownership/ control
6. There are chartered and non-chartered GOCCs

Rules

7. All Quasi-Corporations are GOCCs, All GOCCs are Quasi-Corporations; GIs are not QCs since they are not corporations
8. GOCC-GI distinction matters:
 - a. Local taxation (PFDA, MIAA, PRA, **MWSS** – GIs exempt)
 - b. Paying legal/ docket fees (GIs exempt)
 - c. COA jurisdiction (BSP, WD and MECO – subject to COA)
 - d. Relationship either attachment, control or supervision (VFP – control and supervision; and BSP, PRA, PEZA – attached)

Administrative Relationship

- Areas: policies, operations, budget, decisions, day-to-day, policy and program coordination
- Types:
 1. Supervision and Control (*substitute judgment; rules on how to execute act; alter-ego; e.g. President and DOTr, PRA*)
 2. Administrative Supervision (*oversight, reports, proper performance; not over appointments and contracts, not reverse decisions; e.g. Department and Regulatory Agencies; Province and Component City/ Municipality*)
 3. Attachment (*may sit in Board; reporting; not day-to-day; e.g. DPWH and MWSS; DOF and SSS*)

Powers

- AAs possess Delegated, *not* Inherent, Powers
- Subordinate, *not* Superior, to Enabling Instrument/
Charter, Laws
- Liberal, not Strict, Interpretation of Powers
- AAs cannot prohibit what law does not prohibit
(unless LGU)
- Basic Powers
 1. Investigative
 2. Rule-Making or Quasi-Legislative
 3. Adjudicative or Quasi-Judicial

Must be Expressed in Enabling Law

General:

1. “What” (i.e. Rights)
2. Relationship
3. Prohibitory Powers

Investigation:

4. Contempt
5. Subpoena
6. Search and Seizure

Quasi-Legislation:

7. Contingent Rule
8. Penal Rule

Quasi-Judicial:

7. Quasi-Judicial
8. Jurisdiction
9. Enforcement of Decisions
10. Resolve ?s of law

Delegation of Powers

- *Potestas delegata non potest delegari*
- Exceptions:
 - President – tariff and emergency
 - Local Governments
 - People’s Initiative
 - Administrative Agencies
- Tests of Valid Delegation:
 1. Completeness (the ‘what’, rights; **even if “formulate plan” under Cybercrime Law**); *and*
 2. Sufficient Standards; may be broad, such as public order, safety, social justice, **quality of education, law and order under definition of “Cybersecurity”**; but not vague; need not be stated in law

Investigative Powers

- partakes of judicial discretion, not judicial function
- **Express Grant**
 1. Contempt (can be adjunct of IP, if law provides, not exclusive to courts)
 2. Subpoena (enabling law needed; not implied from power to investigate)
 3. Search
(If not delegated, apply before courts)
(Presence of counsel not required)
- **Express or Implied (from power to enforce laws, Comelec)**
 1. Clearance
 2. Fact-Finding
 3. Ocular Inspection
 4. Visitorial
 5. Indirect contempt for non-appearance (per Comelec Constitutional power to IP and HOPE)

Rule-Making

- Definition: Power to Issue Rules/ Fill in details/ ‘How’ (not ‘What’) a Law will be implemented; **means to provide direct and efficacious solutions to problems**
- Nature – *Subordinate Legislation*: Inferior/ Subordinate to Constitution, Law and Charter, i.e., cannot change, amend or be in conflict with
- Rationale:
 1. regulation highly complex
 2. future situations cannot be fully anticipated
 3. Practicability
 4. expediency
 5. **AAs are experts**

Rule-Making

Effects

1. Force and effect of law
2. Interpretations persuasive (**deserves cogent consideration**); not controlling
3. Presumed legal and constitutional
4. **Mandatory to issue rules if “shall” used**
5. Operative effect
6. Subject to judicial review
7. Subject to repeal and amendment
8. Prospective application

Rule-Making

Requisites

1. Authority: by authority of law (DOJ has no authority to issue a circular on HDO which curtails right to travel absent any enabling law; not fall within inherent power of DOJ to issue rules)
2. Nature: Executive (not legislative - Congress cannot limit or take over the President's power to adopt IRR for a law it has enacted; if issued by the President, power is self-executory by virtue of its being inherently executive in nature; falls under Faithful Execution Clause)

Rule-Making

3. Substance: not contrary to law (subordinate legislation)
4. Scope: germane to the objects and purposes of the law
5. Procedure: properly promulgated; publication and hearing, if required by law (Circular/ not Administrative Regulation [internal rule] so not require hearing, publication and consultation)
6. Issuer: Issued by proper authority for proper subject matter (FDA can issue circular based on AO of SoH; CSC cannot issue rules on positions exempt from classification since outside jurisdiction)

Rule-Making

Standard: *Reasonableness*

- Relation to purpose; **germane to the objects and purposes of the law**
- Supported by good reasons
- Not arbitrary
- Free from legal infirmities

Rule-Making: Case Law Summary

<i>Law</i>	<i>Rules</i>	<i>Ruling</i>
and/ or	and	X
cumulative	not cumulative	X
appeal 15 days	10 days	X
(no mention of period)	60 days	✓
provide additional allowances	RATA from 1 source	X
classify and mark tobacco	exclusive sources	X
“shall” use name of father	“may” use	X
“abortifacient”	“primarily” includes abortion	X
time limit per medium	time limit for all stations	X
qualifications fixed	add: undergo drug test	X
“Electronic Data Message”	“but not limited to”	X
not prohibit electro-fishing	prohibited electro-fishing	X
“control and supervision”	require reports	✓
2 years from payment	10 years from payment	X
DAR to CA	DAR to OP to CA	✓

Invalid Exercise: Rule-Making

Law

Creates

Strict Requirements

No Requirement

Stated Requirement

Enumeration Exclusive

No Classification

Limited Application

Fixed Period

Continue Practice

Grant Power

Rule

Abolishes

Liberalizes Requirements

Imposes Requirement

Alters/ Deletes Requirement

Adds/ Deletes Requirement

Discriminates/ Classifies

Expands Application

Changes Period

Discontinues Practice

Nullifies Power

Types of Rules (PIPICS)

<i>Type</i>	<i>Grant</i>	<i>Publication</i>
Supplementary	Express (E) or Implied (I)	Required
Interpretative	E or I	Not Required
Contingent	E	Required
Penal	E	Required
Procedural	E or I	Required
Internal	E or I	Not Required

Ordinance-Making Powers

President

- Executive Order (general or permanent character)
- Administrative Order (aspects of government operations)
- Proclamation (dates or declare status)
- Memorandum Order (administrative detail, concerns particular officer)
- Memorandum Circular (internal administration for all/ some agencies)
- General or Special Order (as commander-in-chief)

Local Governments

- Territorial Application
- Sanggunian-enacted and Governor/ Mayor-approved
- More or less permanent in character
- Ordinances *and* Resolutions

Quasi-Judicial Power

- Grant of Power: Express (Issuance of HDOs is judicial which DOJ has no authority to wield); Includes those necessary powers (i.e., authority of DAR to conclude proceedings under a law includes coordinate authority to continue its QJ over controversies arising from said proceedings)
- Definition: Deciding controversies, resolving conflicting claims and positions
- Extent: Typically, only questions of fact (questions of law or mixed if expressly permitted under the Charter/ law)
- Limitation: Subject to Judicial Review

Classes: Quasi-Judicial Power

1. Directing (corrective/ award), e.g., *backwages*
2. Enabling (grant/ permit), e.g., *grant of franchise*
3. Dispensing (exempt/ relieve), e.g., *amnesty*
4. Summary (compel/ force), e.g., *cease and desist*
5. Equitable

Quasi-Legislative or -Judicial

1. Application for rate increase by a particular public utility (*QJ*)
2. Increase rates for all buses (*QL*)
3. Setting qualification standards (*QL*)
4. Disqualifying a candidate (*QJ*)
5. Procedures for applying for a franchise (*QL*)
6. Revoking a specific franchise (*QJ*)
7. Issuance of Resolution on Reinvestment Fund for Sustainable Capital Expenditures (*QL*) (2016)

Quasi-Legislative and -Judicial

<i>Subject</i>	<i>Quasi-Judicial</i>	<i>Quasi-Legislative</i>
Grant	E	E or I
Parties	Particular	All/ Sectors
Adversarial	Yes	No
Controversy	Exists	None
Notice and Hearing	Required	Not Required (unless law requires; radical change) (Circular - internal)
Primary/ Exhaustion	Applicable	Not Applicable; judicial review on first instance
Time	Past/ Present	Future
Publication	Not Required	Depends
Res Judicata	Applicable	Not Applicable

QJ Administrative Proceedings

- Character: Adversarial, quasi-judicial, civil
- Jurisdiction: Defined by Law/ Charter (not by AA or consent of parties, not acquired through or waived by any act or omission of the parties; DOJ has jurisdiction over all disputes “solely” [i.e., all without exception] between GOCCs involving questions of law)
- Nature: *not* delegable (power to hear/ receive evidence can be sub-delegated)
- Due Process (DINA): Decision, Impartial Tribunal, Notice and Appear/ Defend (reasonable opportunity to be heard, 2018; observed when affidavits submitted and evidence considered in earlier ruling)
- Procedure: reasonable, due process, meet ends, published

QJ Administrative Proceedings

- Notice and Hearing
 - Required (actual or constructive)
 - Subject to waiver and estoppel
 - Curable (i.e., subsequently heard, filing of motion of reconsideration, oral arguments)
 - Position papers allowed (unless a party invokes or does not waive hearing)
 - Not required when privilege, abatement, conditional right, legislative or administrative
- Right to counsel not imperative
- Full Hearing: All Claims, Rebuttal, Evidence and Cross-Examination (dispensable)

QJ Administrative Proceedings

- Evidence
 - Substantial (unless law provides different quantum; **need not be overwhelming or preponderant**)
 - Ocular allowed (when relevant)
 - Adoption of reports allowed
- Decision: Bases, Form (need not be full-blown like court decisions), Parties, All Issues and Evidence; **based on defenses raised (AA cannot condone if condonation not raised)**
- Deliberative Process (arbitral proceedings): **excepted, provided predecisional and deliberative, from constitutional right to information**
- Enforcement: by AA if authorized by law (if not, courts)

Administrative Findings

- In deference to technical expertise
- AA findings **must be accorded great respect if supported by substantial evidence**; not conclusive and final before courts; findings of fact by the Office of the Ombudsman are conclusive when supported by substantial evidence
- AA business judgments/ **policy matters/ purely administrative matters (e.g. increase in SSS premiums) cannot be interfered with by Courts**

Administrative Findings

Given weight, *not* disturbed unless:

1. Not based on substantial evidence
2. Fraud, mistake, collusion
3. Palpable errors
4. Grave abuse of discretion (arbitrary or despotic manner which must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined by law; capricious and whimsical exercise of judgment tantamount to lack of jurisdiction)
5. Mis-appreciation of evidence
6. Conflict in factual findings

Judicial Review

1. Certiorari
 2. Prohibition
 3. Injunction
 4. Mandamus
 5. Declaratory Relief
 6. Appeal
- Constitutional
 - Decisions of AA which are declared by law final and unappealable are subject to judicial review if
 - fail the test of arbitrariness
 - upon proof of gross abuse of discretion
 - fraud
 - error of law
 - Covers grave abuse of discretion of an AA which does not exercise judicial, quasi-judicial or ministerial functions

Scenarios

AA

Higher/
Level 2

Lower/
Level 1

Courts

1. No actual injury, filed case in AA or Court
2. Instead of filing case before AA, filed directly with Court
3. While case pending before AA Level 2, filed case in Court
4. After AA Level 1 decides case, filed case before Court

Defenses: Judicial Review Premature

1. Doctrine of **Finality of Administrative Action**: Decision of AA must be final before Judicial Review; Exceptions:
 - interlocutory orders
 - protect rights
 - violate Constitution
 - excessive use of power
2. Doctrine of **Primary Jurisdiction**: AA concurrent with courts; needs administrative discretion and expertise of AA (if 2 AAs have concurrent, where 1st filed provided that AA opts to take cognizance, acquires jurisdiction)

Defenses: Judicial Review Premature

3. Doctrine of **Ripeness for Review**: Controversy must be real, present or imminent (not future/ imaginary/ remote)
4. Doctrine of **Exhaustion of Administrative Remedies**: exhaust all administrative remedies before recourse to courts (reassignment – Governor; failure of bidding – BAC; rate adjustment with ERC; security of tenure of water district employees with LWUA Board then CSC; reconsideration of DND memorandum; mixed questions of law and fact indispensable to resolution of case; validity of tax ordinance with DOJ; personnel action against PAGC employee with CSC), condition precedent, with some 20 exceptions, namely: **JPLCS DRIED DARNI CLRNT**

Exceptions: Non-Exhaustion

JPLCS

- Questions essentially **J**udicial
- Administrative Remedy is **P**ermissive
- Pure question of **L**aw (**facts not disputed; local tax**)
- **C**onstitutionality (**impairment; freedom of speech**)
- **S**mall amount that exhaustion will be costly

DRIED

- **U**tter disregard for **D**ue **P**rocess
- No plain speedy **R**emedy
- Strong public **I**nterest (**increase in FMVs in local taxation**)
- **E**stoppel
- Continued and unreasonable **D**elay/ **U**rgency (**impending maturity if bonds; elections nearing**)

Exceptions: Non-Exhaustion

DARNI

- Irreparable **D**amage by party
- **A**lter Ego Bears approval of President
- No administrative **R**eview is provided
- Insistence on exhaustion will lead to **N**ullification of claim
- **R**esort to admin. remedy is an **I**dle ceremony

CLRNT

- **C**ivil action for damages
- **L**and not part of public domain
- **S**pecial **R**easons demanding immediate judicial relief
- No **D**ecision rendered
- **T**ranscendental issues

Compare/ Contrast the Defenses

Defenses/ Aspects	Finality of Admin. Action	Primary Jurisdiction	Non-Exhaustion of Admin. Remedies	Ripeness for Review
Concept	AA not yet final (pending)	Concurrent AA and court; AA 1 st instance	AA process (all levels) not yet completed	No controversy (future, imaginary, remote)
What has to be done/ Court action	Await decision of AA	Allow AA to assume jurisdiction Court dismisses	Complete whole process (all levels) Court suspends	Await matter to become real/ present or imminent
Pendency before AA	While pending in an AA level, go to court	No AA case yet; filed with court directly	Process complete at 1 level, not elevate to next level, then file with court	Pending or no pending AA case
w/ exceptions	Yes	Yes	Yes	No
Exceptions	Interlocutory Preserve status quo Protect rights Violate Constitution Great damage Excess power	Judicial discretion Question of law AA has no jurisdiction	Pure question of law Transcendental issue Constitutional issue No adequate remedy Alter-ego Public interest	None (Declaratory Relief)
Applicability	QJ	QJ	QJ	QJ and QL

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THANK YOU. GOOD LUCK.